

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

TRACY LEE SHEARIN

CIVIL ACTION NO. 04-2548-A

-vs-

JUDGE DRELL

UNITED STATES OF AMERICA, et al.

MAGISTRATE JUDGE KIRK

RULING AND ORDER

Presented to the Court is Plaintiff's unusual "Request for Notice of Conversion of Motion to Dismiss to One for Summary Judgment." (Doc. 16). Cited in support of the motion are several cases from the U.S. Second Circuit Court of Appeals and a commonly used treatise on federal law. While the Second Circuit may have the argued jurisprudential procedures placed upon Rule 12(b) motions, the Fifth Circuit, whose rulings control ours, does not. Counsel is referred to Isquith vs. Middle South Utilities, Inc., 847 F. 2d 186 (5th Cir. 1988). Plaintiff's counsel is hereby granted an extension, until December 23, 2005, to file any supplemental opposition to the Government's motion, including its alternative form, after which the motion (or motions, depending upon how one chooses to split hairs) will be considered submitted, less and except the right of the Government to ASK to file a reply to Plaintiff's opposition, within the usual time periods.

IT IS SO ORDERED.

SIGNED on this 9th day of December, 2005, at Alexandria, Louisiana.



Dee D. Drell
United States District Judge